

RECORDING REQUESTED BY:

United States Air Force
Air Force Real Property Agency
3411 Olson Street
McClellan, CA 95652

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control
Region 4
5796 Corporate Ave
Cypress, CA 90630
Attention: John Scandura, Branch Chief
Office of Military Facilities
Southern California Operations Branch

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

(Re: Site 17, a portion of Parcel K-6, former March Air Force Base, County of
Riverside, DTSC Site Code 400090, 2006)

This Covenant and Agreement ("Covenant") is made by and between United States Air Force (the "Covenantor"), the current owner of Site 17, a portion of Parcel K-6 of the former March Air Force Base which is situated in Riverside, County of Riverside, State of California, described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471, the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code ("H&SC") section 25260. The Covenantor and the Department, collectively referred to as the "Parties", hereby agree pursuant to Civil Code section 1471 and Health and Safety Code section 25355.5 that the use of the Property be restricted as set forth in this Covenant; and the Parties further agree that the Covenant

shall conform with the requirements of California Code of Regulations, title 22, section 67391.1 subdivisions (a), (b), (d) and (i).

ARTICLE I

STATEMENT OF FACTS

1.01. The Property, generally known as Site 17, a portion of Parcel K-6 and totaling approximately 0.736 acres, is more particularly described and depicted in Exhibit "A", attached hereto and incorporated herein by this reference. The Property is located at the former March Air Force Base adjacent and southeast of U Street between DeKay and K Streets in the City of Moreno Valley, County of Riverside, State of California. The Property does not yet have an Assessor's Parcel Number from the County of Riverside. The current owner intends to transfer Parcel K-6, including Site 17, to a new owner. Parcel K-6 is comprised of approximately 53 acres and includes real property, 112 residential homes, and Installation Restoration Program (IRP) Site 17. This Covenant applies to Site 17 only.

1.02. Site 17 – Former Swimming Pool Fill. In November 1989 the former March Air Force Base was placed on the United States Environmental Protection Agency's (USEPA's) National Priority List (NPL) of hazardous waste sites under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601-9675. Parcel K-6 is part of the former March Air Force Base and Site 17 is located within the boundaries of Parcel K-6. Site 17 is a former base swimming pool. After the pool was closed sometime in the 1970's, it was used for waste disposal in 1979 or 1980. The March Air Force Base Operable Unit 2 Record of Decision requires that Site 17 be restricted from residential uses. In addition, soil disturbances at the site are prohibited. Details of these restrictions are described in Article IV of this Land Use Covenant.

1.03. Site 17 Removal Action. The Air Force conducted a removal action in 1994 to excavate and dispose of the pool and its contents. After the removal, PCB Aroclor 1254 (maximum concentration of 190 mg/kg) was detected in soils seven feet beneath the ground surface or deeper. Soils seven feet and deeper were left in place

1.04. Site 17 Risk Assessment Information. As described in the Operable Unit 2 Remedial Investigation and Feasibility Study Report (Air Force, finalized in July 1997), the excess cancer risk to future residents (child plus adult) is 2×10^{-4} . The selected remedy specified in Operable Unit 2 Record of Decision (Approved by the Air Force, USEPA, Santa Ana Water Quality Control Board, and the Department in April 2004) is institutional controls. Details of the restrictions that are part of the institutional controls for Site 17 are described in Article IV of this Covenant.

ARTICLE II

DEFINITIONS

2.01. Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.02. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.

2.03. Improvements. "Improvements" includes, but is not limited to: buildings, structures, roads, driveways, improved parking areas, wells, pipelines, or other utilities.

2.04. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.05. Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.06. Owner. "Owner" means the Covenantor, its successors in interest, and their successors in interest, including heirs and assigns, who at any time hold title to all or any

portion of the Property.

ARTICLE III
GENERAL PROVISIONS

3.01. Runs with the Land This Covenant sets forth Environmental Restrictions that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant: (a) runs with the land pursuant to Health and Safety Code section 25355.5 and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property, (c) is for the benefit of, and is enforceable by the Department, and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding upon Owners/Occupants Pursuant to the Health and Safety Code, this Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive owners of the Property are expressly bound hereby for the benefit of the Department.

3.03. Written Notice of the Presence of Hazardous Substances Prior to the sale, lease or sublease of the Property, or any portion thereof, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee written notice of the existence of this Covenant and its Environmental Restrictions.

3.04 Incorporation into Deeds and Leases This Covenant and its Environmental Restrictions shall be incorporated by reference in each and every deed and Lease for any portion of the Property

3.05. Conveyance of Property The Owner shall provide written notice to the Department not later than thirty (30) days after any conveyance of any ownership interest

in the Property (excluding Leases, mortgages, liens, and other non-possessory encumbrances). The written notice shall include the name and mailing address of the new owner of the Property and shall reference the site name and site code as listed on page one of this Covenant. If the new owner's property has been assigned Assessor's Parcel Number(s) (APN), each such APN that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.

3.06. Costs of Administering the Covenant to be paid by Owner. The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, the Owner hereby covenants for himself and for all subsequent Owners that, pursuant to California Code of Regulations, title 22, section 67391.1(h), the Owner agrees to pay the Department's cost in administering the Covenant.

ARTICLE IV RESTRICTIONS

4.01. Prohibited Uses. The Property, as defined in Exhibit "A", shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for human care.
- (c) A public or private school for persons under 18 years of age.
- (d) A day care center for children.

4.02. Soil Management

- (a) No activities that will disturb the soil (e.g., excavation, grading, removal, trenching, filling, earth movement or mining) shall be allowed at the Property

at or below seven feet below ground surface.

- (b) Any contaminated soils brought to the surface at the Property by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law

4.03. Access for Department The Department shall have reasonable right of entry and access to the Property for inspection, monitoring, soil sampling, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health or safety, or the environment.

ARTICLE V ENFORCEMENT

5.01. Enforcement. Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant including but not limited to, failure to submit, or the submission of any false statement, record or report to the Department, shall be grounds for the Department to pursue enforcement actions as provided by law.

ARTICLE VI VARIANCE, TERMINATION, AND TERM

6.01. Variance. Covenantor, or any other aggrieved person, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code section 25233.

6.02. Termination. Owner, or any other aggrieved person, may apply to the Department for a termination or modification of one or more terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25234.

6.03 Term. Unless ended in accordance with paragraph 6.02, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII MISCELLANEOUS

7.01. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02. Department References. All references to the Department include successor agencies/departments or other successor entity.

7.03. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Riverside within ten (10) days of the Covenantor's receipt of a fully executed original.

7.04. Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owner: Dexter J. Cochnauer, Senior Representative
 Western Region Execution Center
 Air Force Real Property Agency
 3411 Olson Street
 McClellan, CA 95652-1003

To Department: John Scandura, Branch Chief
 Southern California Operations Branch
 Office of Military Facilities
 Department of Toxic Substances Control

5796 Corporate Ave
Cypress, CA 90630

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.05. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.06. Statutory References. All statutory references include successor provisions.

7.07. Inspection and Reporting Requirements. The Owner shall conduct an annual inspection and submit an Annual Inspection Report to the Department for its approval by January 15th of each year. The annual report must include the dates, times, and names of those who conducted and reviewed the annual inspection report. It also shall describe how the observations were performed that were the basis for the statements and conclusions in the annual report (e.g., drive by, fly over, walk in, etc.) If violations are noted, the annual report must detail the steps taken to return to compliance. If the Owner identifies any violations of this Covenant during the annual inspections or at any other time, the Owner must within 10 days of identifying the violation: determine the identity of the party in violation, send a letter advising the party of the violation of the Covenant and demand that the violation cease immediately. Additionally, copies of any correspondence related to the enforcement of this Covenant shall be sent to the Department within ten (10) days of its original transmission.

IN WITNESS WHEREOF, the Parties execute this Covenant

Covenantor:

By:

Title: Dexter J. Cochnauer
Dexter J. Cochnauer, Senior Representative
Western Region Execution Center
Air Force Real Property Agency

Date:

29 Sep 2006

Department of Toxic Substances Control

By:

Title: John Scandura
John Scandura, Branch Chief
Office of Military Facilities
Southern California Operations Branch

Date:

Oct. 4, 2006

STATE OF CALIFORNIA)

)

COUNTY OF SACRAMENTO)

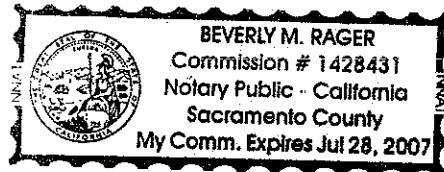
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On this 29th day of September 2006 before me Beverly M. Rager, a notary public, personally appeared Dexter J. Cochnauer, personally known to me (or ~~proved to me on the basis of satisfactory evidence~~) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which he acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Beverly M. Rager



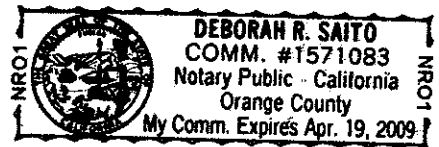
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On this 4th day of October 2006 before me Deborah R. Saito, a notary public, personally appeared John Scandura, Branch Chief, personally known to me ~~(or proved to me on the basis of satisfactory evidence)~~ to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which he acted, executed the instrument.

WITNESS my hand and official seal.



Signature Anna C. Panto

Exhibit A

Site 17 Legal Description

Installation Restoration Program (IRP) Site 17

That portion of Section 27, T3S, R4W, SBM Official Records of the County of Riverside, State of California, more particularly described as follows:

Beginning at the Southerly end of that course shown as North 0°17'46" East 56.00' on Sheet 6 of Record of Survey 121, pages 83-90, Official Records of Riverside County;

thence; S 45°16'37" W, a distance of 191.38 feet;

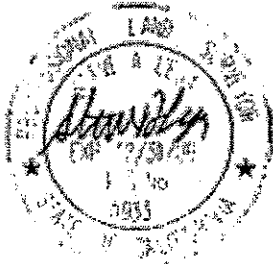
thence; S 44°33'28" E, a distance of 169.62 feet;

thence; N 44°04'09" E, a distance of 191.43 feet;

thence; N 44°33'29" W, a distance of 165.58 feet; to the True point of beginning.

Containing an area of 32,075 ft² or 0.736 Acres.

This description has been prepared by me for the purpose of describing an Environmentally Restrictive Area.



15 JULY 06

Exhibit A
Site 17 Legal Survey

- Indicates 2" Aluminum Cap found
as shown on RS 121/83-90.

Monuments shown hereon are
set 1 foot offset from the
Cantonment Line as noted on
RS 121/83-90.

